

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

JUSTIN K. BLACK,

Petitioner,

v.

CIVIL ACTION NO. 3:13-22029

MARVIN C. PLUMLEY, Warden,

Respondent.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court deny Petitioner's Motion to Hold in Abeyance 2254 Petition Until Completion of State Court Proceedings (ECF No. 3), deny Respondent's Motion to Dismiss Petition (ECF No. 6), dismiss without prejudice Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of *Habeas Corpus* By a Person in State Custody (ECF No. 1), and remove this matter from the Court's docket. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Petitioner's Motion to Hold in Abeyance 2254 Petition Until Completion of State Court Proceedings (ECF No. 3), **DENIES** Respondent's Motion to Dismiss Petition (ECF No. 6), **DISMISSES without prejudice** Petitioner's Petition Under 28 U.S.C. §

2254 for Writ of *Habeas Corpus* By a Person in State Custody (ECF No. 1), and **REMOVES** this matter from the Court's docket, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: March 31, 2014

  
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ROBERT C. CHAMBERS, CHIEF JUDGE